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## **What Kind of Civil Society?**

### **The changing complexion of public engagement at the WTO**

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#### ***Abstract***

Since the WTO's creation its relationship with civil society has changed significantly. In this article, we use an original dataset to: (i) plot the changes that have taken place in civil society group representation at the WTO Public Forum; and (ii) assess the significance of these changes for understandings of public interactions with the WTO. We test four hypotheses drawn from prevalent claims made in the academic and policy-facing literatures: (i) that the volume of participation in the Public Forum is determined by the ebb and flow of WTO-centered trade politics, with participation levels peaking during moments of crisis and falling away during times of stasis; (ii) that the stalling of the multilateral trade agenda has led to business interests turning away from the WTO; (iii) that the participation of NGOs in the Public Forum is also sensitive to the rhythms of trade politics; and (iv) that governments—particularly those from the global North—have begun to lose interest in the WTO and shifted attention to other arenas. We find support for hypotheses 1 and 3 but not for 2 and 4. We subsequently analyze whose voices are heard at the Public Forum and find that there has been a narrowing of the arena of trade debate over time.

## **What Kind of Civil Society?**

### **The changing complexion of public engagement at the WTO**

**Erin Hannah, James Scott, Rorden Wilkinson & Amy Wood**

Civil society interest in trade has a long history,<sup>1</sup> though it increased noticeably following the establishment in 1995 of the World Trade Organization (WTO). In its most spectacular form this interest has been expressed in the demonstrations that took place during WTO ministerial conferences in the late 1990s and early 2000s—most notably in Geneva (1998), Seattle (1999), Cancún (2003), and Hong Kong (2005)—but it has also taken the form of myriad internet campaigns, articles, newspaper columns, briefings, statements, civil education exercises, workshops, town hall meetings and many others.<sup>2</sup>

In 2001, in response to the strength of civil society interest in trade, the WTO secretariat created the Public Symposium to provide a formal mechanism for engaging non-state interests. The Symposium was subsequently renamed the Public Forum in 2005. Yet, for all the importance it has come to assume in orientating WTO-civil society engagement, the Public Forum has not been the subject of a dedicated study nor have attendance levels therein been scrutinized. References to the Public Forum and—less frequently—its attendees are present in the literature, but these are few and far between, and no systematic study exists. That said, multiple claims are made in the academic and policy-facing literatures about the character and composition of civil society and its engagement with the multilateral trading system. These claims warrant further

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<sup>1</sup> Steve Charnovitz & John Wickham, *Non-Governmental Organizations and the Original International Trade Regime*, 29 J. World Trade 111-122 (1995).

<sup>2</sup> Matthew Eagleton-Pierce, *The Internet and the Seattle WTO Protests*, 13 J. Soc. Just. 331-337 (2001); Ann Capling & Kim Richard Nossal, *Death of Distance or Tyranny of Distance? The Internet, Deterritorialization, and the Anti-Globalization Movement in Australia*, 14 Pacific Rev. 443-465 (2001); and Mario Pianta, *Slowing Trade: Global Activism Against Liberalization*, 5 Global Policy 214-221 (2014).

investigation because they shape understandings of not just WTO-civil society engagement but also wider trends in trade politics, and they have not been scrutinized in the context of the WTO Public Forum.

We examine patterns of attendance at, and participation in, the Public Forum—the central venue for civil society participation in multilateral trade-related debates. Our aims are: (i) to understand better how interest in, and the character of, debate about multilateral trade has evolved over time; (ii) to reflect on the accuracy of existing wisdom in the field; and (iii) to address what we find to be errors and omissions in the literature.

In pursuit of these aims, we present and analyze new data on WTO Public Forums to understand better the complexion of civil society groups at the WTO Public Forum; the extent of civil society's interest in the multilateral trade agenda; and the effect of political developments in trade negotiations on patterns of WTO-civil society engagement. We do this by plotting the changes that have taken place in civil society group representation at the Public Forum and by testing four hypotheses about the changes that have taken place in the complexion of civil society actors represented at, and absent from, the event.

These hypotheses are:

- (i) that the volume of participation in the Public Forum is determined by the ebb and flow of WTO-centered trade politics, with participation levels peaking during moments crisis and falling away during times of stasis;<sup>3</sup>
- (ii) that the stalling of the multilateral trade agenda has led to business interests turning away from the WTO;<sup>4</sup>

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<sup>3</sup> Martina Piewitt, *Participatory Governance in the WTO: How Inclusive is Global Civil Society*, 44 J. World Trade 467-488 (2010); and Marcel Hanegraaff, Jan Beyers, & Caelesta Braun, *Open the Door to More of the Same? The Development of Interest Group Representation at the WTO*, 10 World Trade Rev. 447-472 (2011).

<sup>4</sup> Cornelia Woll, *Global Companies as Agenda Setters in the World Trade Organization*, in *The Handbook of Global Companies* (John Mikler ed., John Wiley and Sons Ltd. 2013); Jappe Eckhardt, *The Decreasing*

- (iii) that the participation of NGOs in the Public Forum is also sensitive to the rhythms of trade politics; and
- (iv) that governments—particularly those from the global North—have begun to lose interest in the WTO and shifted their attention to other venues.

In examining the data, we find evidence to suggest that the volume of participation in the Public Forum generally—and NGO participation in particular—is indeed sensitive to the ebb and flow of trade politics, with participation levels peaking during moments crisis and falling away during times of stasis (hypotheses one and three). However, we find little support for claims that business groups are losing interest in the multilateral trading system or that governments have also turned their attention away from the WTO, as reflected in their attendance levels at the Public Forum (hypotheses two and four). Indeed, we find evidence to suggest that there is some variance between claims made that business and government interest is dwindling, and participation in Public Forums.

In examining the data we also identify trends in the geographical distribution of participants. We do this to help give further insight into the character and complexion of civil society representation at the Public Forum. In so doing, we find that Northern based business groups are becoming increasingly prominent within the Public Forum, and also that the primary voices heard in Forum debate (that is, the panelists) are also increasingly from institutions of the global North. This points to a significant change in complexion of the civil society groups represented at the WTO which may underpin a change in the character of debate and of civil society-WTO engagement.

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*Interest of Business in the WTO: Why Should We Care and How Can We Solve it?* (ICTSD & World Trade Institute 2013); and Dirk De Bièvre, Arlo Poletti, Marcel Hanegraaff, & Jan Beyers, *International Institutions and Interest Mobilization: The WTO and Lobbying in EU and US Trade Policy*, 50 J. World Trade 289-312 (2016).

In pursuit of our aims, the paper unfolds as follows. We begin with an overview of the development of the Public Forum since its creation, describing how it is structured and organized. We then review the literature on non-state actor engagement with the WTO and extract the four hypotheses outlined above. Thereafter we set out how we gathered and analyzed our data, and present our findings. We chart the changes that have taken place in the character of attendees and presenters exploring the changing proportion of participants drawn from our six main analytical groups—states, NGOs, academia, business, intergovernmental organizations (IGOs), and labor—and how they have evolved over the Public Forum’s lifetime. We illustrate the changes that have taken place in the geographic origins of delegates and identify other key trends in the data; and we offer explanations for these changes over time. We then explore the changes that have taken place in the geographic origins of delegates and presenters. In the final section we reflect on the literature and offer our concluding comments.

### **Why Study the Public Forum?**

Scholarly curiosity in civil society’s engagement with trade issues has been high since the conclusion of the Uruguay Round of multilateral trade negotiations. Key works have explored the existing and future role of non-state actors in the multilateral trading system; the potential of global civil society to act as a democratizing and a transformative force; civil society’s capacity to give voice to otherwise unheard demands and interests; the role of non-state actors in opening the multilateral trading system up to greater participation, accountability, and transparency—and official rebuttals thereof; and the function of NGOs in dispute settlement.<sup>5</sup>

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<sup>5</sup> Silke Trommer, *Transformations in Trade Politics: Participatory Trade Politics in West Africa* (Routledge 2014); Kristen Hopewell, *Multilateral Trade Governance as Social Field: Global Civil Society and the WTO*, 22 Rev. Intl. Pol. Econ. 1128-1158 (2015); Robert O’Brien, Robert, Anne Marie Goetz, Jan Aart Scholte, and Marc Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global*

Yet, despite the scale of this curiosity, there are a number of areas that remain relatively unexplored. Little work, for example, has been done on understanding precisely who makes up the civil society that engages with the WTO. Scholars have noted clear differences in the aims and orientations of civil society groups and categorized them accordingly,<sup>6</sup> but few systematic studies have been done. Similarly, with the exception of Hanegraaff, Beyers, and Braun's study<sup>7</sup> of the participation of interest groups across seven WTO ministerial conferences, little has been done to track changes in the composition of this civil society over time. Likewise, although participant observation has underpinned pronouncements in the literature about the degree to which civil society interest in trade has oscillated in accordance with progress in the most recent round of trade negotiations—the Doha Development Agenda (DDA), or Doha round<sup>8</sup>—little empirical support has been offered by way of verification. Equally, almost no disaggregation has been pursued to determine how different civil society groups (e.g., labor, NGOs, business associations) have adjusted their engagement with trade issues in the wake of the (now set aside) Doha round. Moreover, little systematic data currently exist on the broad geographic affiliation of civil society groups.

In large measure, these gaps and oversights in the extant literature are a consequence of the difficulty of obtaining data on civil society's composition and the trends therein. Good desk-based work has been done exploring the kinds of civil society campaigns that have been pursued and the range of interests involved, and targeted

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*Social Movements* (Cambridge University Press, 2000); Baogang He and Hannah Murphy, *Global Social Justice at the WTO? The Role of NGOs in Constructing Global Social Contracts* 83 Intl. Affairs 707-727 (2007); Daniel C. Esty, Non-Governmental Organizations at the World Trade Organization: Cooperation, Competition, or Exclusion 1 J. of Intl. Econ. Law 1, no. 1: 123-147 (1998); and Author (2016).

<sup>6</sup> Jens Steffek, *Awkward Partners: NGOs and Social Movements at the WTO*, in *The Oxford Handbook on the World Trade Organization* (Amrita Narlikar, Martin Daunton, and Robert M. Stern, eds., Oxford University Press, 2012).

<sup>7</sup> Hanegraaff et al., *supra* n. 3, at 447-472.

<sup>8</sup> Author (2010)

interview programs have made important interventions.<sup>9</sup> However, more directed studies examining discrete instances of engagement between civil society and the WTO have proven more problematic. Studying the complexion of civil society demonstrations during ministerial conferences, for instance, requires too great a degree of happenstance, in terms of being in the right place at the right time as well as being able to survey participants.<sup>10</sup> Moreover, it tells us very little about the character of civil society beyond those demonstrating outside of the official conference centers in which ministerial conferences are hosted. Likewise, focusing on particular issue-based campaigns—such as pursuing a waiver to the Agreement on Trade Related Intellectual Property Rights to enable genetic pharmaceutical production in times of health emergencies—is similarly fraught selection-wise because it involves too narrow a range of interests.<sup>11</sup>

Understanding the broad character of the civil society engaged with trade issues and the WTO is thus not best achieved by exploring discrete instances of civil society-WTO engagement, albeit that valuable insight may lie therein. Rather, a systematic examination of civil society participation during both ministerial conferences and the organization's Public Forum can go some way to filling that gap—though neither is without its own challenges. Some good work has been conducted on civil society and its engagement with the WTO during ministerial conferences, most notably by Hanegraaff, Beyers, and Braun<sup>12</sup>— but elsewhere scholarly comment has tended to be confined to

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<sup>9</sup> Nigel Haworth & Stephen Hughes, *Trade and International Labour Standards: Issues and Debates Over a Social Clause*, 39 J. Industrial Relations 179-195 (1997); Hannah Murphy, *The Making of International Trade Policy: NGOs, Agenda-setting and the WTO* (Edward Elgar Pub. 2010); and Alina Rocha Menocal, *What Happened at the WTO Summit in Cancún? A Conversation with Adrian Lovett of Oxfam GB*, 14 Dev. in Practice 423-427 (2004).

<sup>10</sup> Margaret Levi and Gillian Murphy's work on event coalition building during the 1999 Seattle demonstrations is a notable exception in this regard. See Margaret Levi & Gillian H. Murphy, *Coalitions of Contention: The Case of the WTO Protests in Seattle*, 54 Pol. Stud. 651-670 (2006).

<sup>11</sup> Susan K. Sell, *TRIPS and the Access to Medicines Campaign*, 20 Wisconsin Intl. Law J. 481-521 (2001); Kenneth C. Shadlen, *The Political Economy of AIDS Treatment: Intellectual Property and the Transformation of Generic Supply*, 51 Intl. Stud. Q. 559-581 (2007); and James Scott & Sophie Harman, *Beyond TRIPS: Why the WTO's Doha Round is Unhealthy*, 34 Third World Q. 1361-1376 (2013).

<sup>12</sup> Hanegraaff et al., *supra* n. 3, at 447-472.



passing mentions in studies that have otherwise focused on the negotiating substance and dynamics of those events rather than specifically targeted studies.<sup>13</sup>

Examining the dynamics of civil society-WTO engagement is more straightforward at the Public Forum. Attendance is open to any member of the public. As we show below, overall levels of attendance have remained reasonably robust. Access is available through a simple process of registration, and the WTO building—the Centre William Rappard—houses the event in its entirety, enabling a better sense of the character of civil society in attendance to be ascertained through direct participation by the researcher and set alongside data on numbers and participants. Data on who has registered to attend Public Forums are not publicly available, but have been provided to us by the WTO secretariat. There are constraints on what can be concluded from the data—for instance, for privacy reasons the WTO is unable to provide data on the numbers of delegates that actually attend the events. Also, it should be noted that those with WTO badges do not have to register to attend the Public Forum.<sup>14</sup>

Given the absence of systematic data on civil society participation and methodological problems associated with gathering such data, our choice of the Public Forum to understand dynamics between civil society actors is clear. However, these are not the only motivations for our study. Theoretically, the interaction of these actors also tells us something about the extent to which engagement with multilateral economic institutions such as the WTO remains a preference for civil society actors in a way that it did in the late 1990s and early 2000s.<sup>15</sup> And secondly, while governments remain the

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<sup>13</sup> Faizel Ismail & Brendan Vickers, *Mandela's Way: Reflections on South Africa's Role in the Multilateral Trading System*, in *Trade, Poverty, Development: Getting Beyond the WTO's Doha Deadlock* (Rorden Wilkinson & James Scott eds., Routledge 2013).

<sup>14</sup> WTO badges can be held by members, observers, observer organizations, journalists and local NGOs.

<sup>15</sup> Robert O'Brien, Anne Marie Goetz, Jan Aart Scholte, & Marc Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge U. Press 2000); Jan Aart Scholte, *A More Inclusive Global Governance? The IMF and Civil Society in Africa*, 18 *Global Governance* 185-206 (2012).

central negotiating parties at the WTO, focusing on civil society interaction helps us better understand whose voices are being heard in—or at the very least who is engaging with—the WTO in the only dedicated, officially sanctioned non-state venue.

### **The WTO Public Forum**

The Public Forum is the primary outcome of a public engagement strategy led by the WTO Secretariat that has its roots in the groundswell of civil society interest in trade issues that accompanied the organization's establishment. It was perhaps inevitable that the inclusion of references to sustainable development and the environment in the Preamble of the Marrakesh Agreement and the lack of a resolution to the long-standing question of worker rights and multilateral trade regulation would spur civil society interest in the multilateral trading system from the very outset.<sup>16</sup> A year after the WTO's creation, member states recognized the need for guidance on how relations with civil society should be structured. Members envisaged minimal interaction between the institution itself and public groups, preferring civil society to direct its attention towards national governments rather than the WTO itself. The result was an agreement by member states in the WTO General Council of a set of "Guidelines for Arrangements on Relations with Non-Governmental Organizations," which set out the "broadly held view" that NGOs would not have any direct involvement in the work of the WTO or its meetings.<sup>17</sup> Instead, what these guidelines did was to highlight the importance of consultations at the national level as the appropriate avenue through which to deal with civil society concerns as this is where primary responsibility lies "for taking into account the different elements of public interest which are brought to bear on trade policy-making."<sup>18</sup>

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<sup>16</sup> David Robertson, *Civil Society and the WTO*, 23 *The World Econ.* 1119-1134 (2000).

<sup>17</sup> WTO, *Guidelines for Arrangements on Relations with Non-Governmental Organizations*, [https://www.wto.org/english/forums\\_e/ngo\\_e/guide\\_e.htm](https://www.wto.org/english/forums_e/ngo_e/guide_e.htm) (accessed 27 July 2017).

<sup>18</sup> WTO, *supra* n. 18.

This strategy, however, proved insufficient, and its shortcomings were brought sharply into focus during the mass demonstrations accompanying the organization's 1999 Seattle ministerial conference.<sup>19</sup> Seattle underscored the need for a more controlled arena in which civil society could engage with the WTO. The creation of the annual Public Symposium—and subsequently the Public Forum—was a key element of that response.<sup>20</sup> The Public Symposium was not, however, intended to be a radical departure from existing ways of dealing with civil society interest or the 1996 guidelines. Rather, it was seen as the extension of an existing mode of engagement using symposia as fairly neutral and useful consultation exercises that had already been put in place. This was, as Gabrielle Marceau and Peter Pedersen put it, “largely due to the success of the first symposium [on trade and environment, held in June 1994 in the run up to the formal establishment of the WTO] and the fact that Members found it to be a useful, if arms-length, exercise in NGO-WTO relations, with the Secretariat serving as ‘buffer’ between Members and NGOs.”<sup>21</sup>

With this in mind—in the wake of the 1999 Seattle ministerial conference and in the run-up to the November 2001 Doha ministerial meeting (at which the DDA was launched)—the first Public Symposium was held in July 2001. From the outset, civil society—private individuals and representatives of non-state, not-for-profit groups including NGOs, labor, academics, business associations, and consumer organizations—participated alongside a host of other actors including for-profit business, delegates from IGOs and state-based representatives such as those working in permanent missions to the WTO creating a unique gathering of disparate interests within global economic governance.

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<sup>19</sup> Author (2006).

<sup>20</sup> Author (2017).

<sup>21</sup> Gabrielle Marceau & Peter N. Pedersen, *Is the WTO Open and Transparent? A Discussion of the Relationship of the WTO with Non-Governmental Organisations and Civil Society's Claims for More Transparency and Public Participation*, 33 J. World Trade 5-49 (1999).

The primary purpose of the Public Forum according to the WTO is to provide an opportunity for civil society actors to participate in dialogue about timely issues (WTO 2017).<sup>22</sup> For civil society actors, it is an opportunity to keep abreast of developments in multilateral trade politics as well as more generally trade and related issues. The Public Forum serves as the primary platform for conveying issues of concern and it provides regular networking opportunities, particularly for those with limited resources. Unlike ministerial conferences where civil society actors are invited to submit position papers, there is no direct mechanism at the public forums to provide feedback to the WTO on substantive trade policy matters.<sup>23</sup> As Martina Piewitt suggests, the Public Forum is a “platform for information exchange rather than access to decision-making processes.”<sup>24</sup>

Each Public Forum is organized around a central theme chosen by the secretariat (see Box 1). Civil society organizations, as well as business, IGO and state-based representatives are invited to submit panel proposals consisting of: a topic, a description of how it addresses the core thematic questions, and a set of speakers. The secretariat then selects panels based on fit with the theme, the quality of the speakers, and the diversity of viewpoints across the panel.<sup>25</sup> The list of proposed panels is not publicly available, making it impossible to assess with pinpoint accuracy which panels are filtered out. The obvious concern expressed by some observers is that panels that are critical of the WTO are rejected, but the perennial inclusion of at least some critical voices (such as *Our World is Not For Sale*, which holds a series of panels each year) demonstrates that there is no obvious exclusion of those that are more critically disposed to trade orthodoxy. The secretariat also organizes keynote speakers for plenary sessions that occur during each

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<sup>22</sup> WTO, *Public Forum*, [https://www.wto.org/english/forums\\_e/public\\_forum\\_e/public\\_forum\\_e.htm](https://www.wto.org/english/forums_e/public_forum_e/public_forum_e.htm) (accessed 27 January 2017).

<sup>23</sup> While the WTO secretariat reported on the forum until 2012, it no longer does so.

<sup>24</sup> Piewitt, *supra* n. 3, at 467-488.

<sup>25</sup> Anonymous interview with WTO secretariat official 3 October 2014.

morning of the Forum, and provides translations into the WTO's three official languages for as many panels as possible.

*Box 1—WTO Public Symposium/Forum Themes*

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### **What the Literature Says**

The existing literature comprises a series of pointers that help guide what we might expect to find when observing participation in the Public Forum over time. We gather these pointers together to formulate four hypotheses that we then use to explore the data.

First, almost all of the literature on multilateral trade politics since the Public Forum was created is couched within developments in the Doha round. Here commentators note how moments of contention and contestation in the round have been accompanied by heightened interest—public and otherwise—in trade and the WTO.<sup>26</sup> Similarly, moments of abeyance, stagnation, and stalemate see public interest in the round falling off, with commentators noting particular disengagement by business and developed country interests in the round.<sup>27</sup>

What we should see, then, are claims that participation in the Public Forum oscillates broadly in line with developments in the round. As moments of crisis are integral components of WTO processes and play a role in the patter of negotiations, we should be able to plot patterns of participation in the Public Forum accordingly. Moreover, given the character of WTO negotiations—in which the most politically difficult decisions are often pushed to intensive, time-bound negotiations during ministerial conferences and

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<sup>26</sup> Author (2009, 2014).

<sup>27</sup> Hopewell, *supra* n. 5, at 1128-1158.

mini-ministerial meetings, and bluff and political posturing serve to manufacture moments of crisis, which then create the space for forward movement—we should expect spikes of interest in, and engagement with, the WTO Public Forum to accompany key political moments in the trade negotiations as civil society groups seek to use the venue to leverage their voice.

Second, a consensus exists in the literature that suggests one of the problems that the DDA encountered was a lack of interest from the business world.<sup>28</sup> With most of the new issues that business groups have increasingly demanded being absent from the Doha agenda combined with the glacial pace (and ultimate failure) of the negotiations, claims have been made that business has moved on to push for mega-regional trade agreements rather than pursue liberalization and new rule making in the WTO (see, for example, Woll 2013).<sup>29</sup> What we should expect to see, then, is a loss of business interest in the trade agenda as the Doha negotiations stall and a measure of disengagement from WTO matters including withdrawal from the Public Forum.

Third, claims of disengagement from the WTO have not been confined to business groups. Scholars have argued that the global civil society movement that brought the multilateral trade system to public attention in Seattle in 1999 has subsequently morphed into an “alter-globalization” movement and a project of global democratization<sup>30</sup> that has turned the movement’s attention toward other areas—the war in Iraq, anti-G-7/G-8/G-20 protests, climate negotiations, the Occupy movement, and mega-regional trade negotiations. When taken together with claims that civil society interest in the multilateral

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<sup>28</sup> Roberston, *supra* n. 17, at 1119-1134; and Eckhardt, *supra* n. 4.

<sup>29</sup> Woll, *supra* n. 4.

<sup>30</sup> Ruth Reitan, *Theorizing and Engaging the Global Movement: From Anti-Globalization to Global Democratization*, 9 *Globalizations* 323-335 (2012).

trade agenda has diminished since the 2008 impasse in the DDA we should expect to find falling levels of NGO engagement in the Public Forum.<sup>31</sup>

Fourth, the trade literature suggests that governments, particularly those of the global North, have lost interest in the WTO after becoming disenchanted with its lack of ability to secure trade agreements, and turned their attention to the mega-regional agreements such as the Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP)<sup>32</sup> as well as other initiatives as the fortunes of mega-regionals themselves have waned. Trade officials have long talked of the WTO and the DDA being outdated, whether it be Pascal Lamy (when EU trade negotiator) deriding its “medieval” structure<sup>33</sup> or US Trade Representative Michael Froman (2015) asserting that “Doha was designed in a different era, for a different era.”<sup>34</sup> Unable to secure an agreement to their liking, industrialized country members have sought to utilize other forums for pushing forward the trade agenda.<sup>35</sup> This suggests that a disenchantment with both the WTO and the Doha round should lead to disengagement by governments in the multilateral trade agenda which would have an obvious impact on participation at the Public Forum. Indeed, if Hanegraaff, Beyers, and Braun are correct and there are “usually just a few governmental representatives present,”<sup>36</sup> we should find less participation by government delegates—particularly from the global North—at the Public Forum.

What we have, then, are four hypotheses that offer suggestions about what we ought to expect to find when we examine data on civil society participation at the Public

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<sup>31</sup> Piewitt, *supra* n. 3, at 467-488.

<sup>32</sup> Ferdi de Ville & Gabriel Siles-Brügge, *TTIP: The Truth About the Transatlantic Trade and Investment Partnership* (Polity Press 2015).

<sup>33</sup> ICTSD, *Bridges Daily Update #6: Cancún Collapse: Where There's No Will There's No Way*, <http://www.ictsd.org/bridges-news/bridges-news/bridges-daily-update-6-cancun-collapse-where-theres-no-will-theres-no-way> (accessed 28 July 2017).

<sup>34</sup> Michael Froman, *We Are at the End of the Line on the Doha Round of Trade Talks*, Financial Times, <https://www.ft.com/content/4ccf5356-9eaa-11e5-8ce1-f6219b685d74> (accessed 28 July 2017).

<sup>35</sup> Christina L. Davis, *Overlapping Institutions in Trade Policy*, 7 Perspectives on Pol. 25-31 (2009).

<sup>36</sup> Hanegraaff et al., *supra* n. 3, at 451.

Forum: (i) that the volume of participation in the Public Forum is determined by the ebb and flow of WTO-centered trade politics, with participation levels peaking during moments crisis and falling away during times of stasis; (ii) that the stalling of the multilateral trade agenda has led to business interests turning away from the WTO; (iii) that the participation of NGOs in the Public Forum is also sensitive to the rhythms of trade politics; and (iv) that governments—particularly those from the global North—have begun to lose interest in the WTO and shifted attention to other arenas.

### **Methodology and Data**

Our observations are drawn from four sources: (i) a dataset comprising all participants registered at WTO Public Forums since 2002 made available in a raw form by the WTO Secretariat for use in this research; (ii) a dataset on the composition of all panels at the Public Forum since 2001, again compiled and analyzed by us and made available by the WTO Secretariat; (iii) extensive participant observations of Public Forums since 2010 as attendees; and (iv) a more general set of semi-structured interviews with civil society groups, secretariat staff and WTO member delegates conducted since 2003 that take in aspects of the composition of civil society and its evolving relationship with the WTO. Taken together, these sources provide comprehensive insight into the changing dynamics of the WTO Public Forum, of formalized engagement between non-state actors and the multilateral trade agenda, of the character of the civil society engaged in the Public Forum, and of the trends in participation therein. We describe the development and analysis of our two novel datasets below.

First, using total population sampling, we gathered information on participant registrations from twelve Public Forums from 2002 to 2014 and all presenters from those



events.<sup>37</sup> The dataset was compiled using registrant data collected and provided to us by the WTO secretariat on each annual Public Forum and from publicly available Public Forum programs.<sup>38</sup> This compilation is novel as these data have not been previously assembled or analyzed.

The datasets include the organizational and country affiliations of each registrant and panelist at the Public Forums. The total entries for analysis numbered 19,754 (17,035 registrant and 2,719 panelist entries). From 2002 to 2005 the WTO organized the data according to organization and country. In 2006 a new category was introduced for the self-selected position of the registrant. The mainstays included “academic,” “NGO representative,” “government official,” “business representative,” but there were also several other less commonly used categories which changed from year to year (such as, journalist, lawyer and student). Our method of categorization differs from that used in the WTO’s annual reports, and we have created eight actor categories, which we believe more accurately captures the range of actors present at the Public Forums. Each organizational entry was coded as “academic,” “business,” “IGO,” “labor,” “NGO,” “state,” “individual,” or “miscellaneous.” Notably “academics” included high school and graduate students, and those who self-identified as academics. The “business” code was primarily used to identify representatives of non-profit business associations (including farming industry associations) and for-profit corporations, but also includes small numbers of consultants, consumer advocates, and lawyers. At the level of our analysis, it is not necessary to disaggregate this category although doing so is advantageous for future research.

Identifying “IGOs” was straightforward, based on the character of the organizational affiliation specified. The “labor” code was used to identify representatives

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<sup>37</sup> The Public Forum themes and dates can be found in Appendix I.

<sup>38</sup> The Public Forum Programmes are available online at [https://www.wto.org/english/forums\\_e/public\\_forum\\_e/public\\_forum\\_e.htm](https://www.wto.org/english/forums_e/public_forum_e/public_forum_e.htm).

of organized labor unions. Private, non-profit groups with advocacy agendas (based on their mission statements and web content) organized at the local, national or international level were coded as “NGOs.” Entities coded as “state” included government officials, parliamentarians, or those who self-identified as affiliates of local authorities. Each organization is also coded as either global North or global South. This was determined through a combination of Human Development Index (HDI) rankings and geography.<sup>39</sup> International organizations with universal membership were coded as 0, neither from the North or the South.

A subset of organizations was difficult to categorize with confidence because of the hybrid nature of their governance, wherein their structure and/or behavior were unlike other actors in their respective category (these mostly pertained to business organizations with philanthropic dimensions) and therefore was categorized as “miscellaneous.” Representatives from various news and media outlets were also coded “miscellaneous” because they could not be attributed to one of the actor categories. Otherwise, some organizations have since become defunct or could not be located—most prevalent in NGOs from the global South. It is also notable that some individuals registered to attend the Public Forum without an institutional affiliation and therefore were coded “individual.”

The data were analyzed for aggregate and longitudinal descriptive tabulations. The purpose of this analysis is to understand better: (i) how civil society participation has changed at the Public Forums relative to other actors; and (ii) how the dynamics between civil society organizations and other actors in the global North and global South have

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<sup>39</sup> Although an HDI of 0.8 or more is generally considered to represent ‘highly developed’ countries, Argentina, Cuba, Chile (of the countries represented in the public forums) are recipients of the Generalized System of Preferences (GSP) as of 2014 and were categorized as global South. Five additional countries (Saudi Arabia, United Arab Emirates, Kuwait, Bahrain, and Brunei Darussalam) were above the 0.8 threshold located in the Middle East and Asia (receiving GSP as of 2011) were likewise classified as global South.

changed at the Public Forum. Our results are discussed in the following sections.

## **Our Findings**

Figure 1 shows the overall number of registrants each year. From the introduction of the Public Forum the number of participants increased rapidly to just over 1,700 in 2005. The peak years of 2005 and 2007 coincided with the most intense period in the DDA negotiations, which fits with claims that there is a correlation between attendance at the Public Forum and the intensity of negotiations within the WTO. These peaks stand out among what is otherwise a fairly stable participation rate that shows modest fluctuation around an average of approximately 1,400 registrants each year.

## **FIGURE 1: ABOUT HERE**

Figure 2 separates out the categories of participants and shows changes in their levels of participation. The data show a number of trends that warrant further investigation. First, rather than demonstrating a gradual fall in the degree of business participation in the Public Forum, a more complex picture is evident. It can be seen that claims that business interest in the DDA has weakened and led to a disengagement from the WTO do not hold. While business interest peaks in the year 2007 before declining when the DDA was put on ice in 2008, that decline was relatively small and short-lived. Beginning in 2009, representation from business groups has risen again to re-attain its previous peak.

Second, NGO participation peaks around the time of the most intense period of DDA negotiations (2005-2007) but then enters a period of much steeper and sustained decline, with what might be seen as the beginnings of a reversal of that trend visible only

in 2014. This is what we might expect to find on the basis of claims that NGOs are moving on to new campaigns and disengaging from the WTO process as the DDA was put on hold. The up turn from 2014 needs to be understood better when additional data are available.

Third, the data also suggest that there is little support for the claim that governments have disengaged from the multilateral trade agenda following impasses in WTO negotiations. Though there are clear peaks in interest in 2005 and 2007 corresponding with crisis points in the DDA negotiations around the Hong Kong Ministerial Conference and the peak point of the negotiations around the mini-ministerial processes in 2007, rather than a decline we see a fairly steady overall rise in state participation in the Public Forum. For example, state representative attendance in 2011 was relatively high.

Fourth, the data show a relatively large and quite volatile “academic” group. In large measure this size and volatility is driven by the inclusion of large numbers of high school students in particular years (such as 2013). Since then, the secretariat has sought to limit the participation of students who are below university level, feeling that high school students are unable to follow the discussions sufficiently well.<sup>40</sup>

Fifth, the data show that the other groups make up only marginal elements of the total number of participants at these events. Notably, labor groups are almost absent in most years. The peak in labor representation in 2005 corresponds with the final flurry in the trade-labor standards debate that was prominent during the early years of the Doha round and which was subsequently settled in the WTO moving on instead to regional fora among other venues.<sup>41</sup>

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<sup>40</sup> Interview with WTO Secretariat staff, Geneva, Switzerland, 3 October 2014.

<sup>41</sup> Nigel Haworth, Stephen Hughes, & Rorden Wilkinson, *The International Labour Standards Regime: A Case Study in Global Regulation*, 37 *Enviro. & Plan. A* 1939-1953 (2005).

## Figure 2: ABOUT HERE

The different trends in the absolute numbers of participants across the categories have resulted in changing proportions between them. Figure 3 plots the percentage of total participants represented by each group, along with trend lines. Some aspects are noteworthy and point to the character of the Public Forum changing over time. As noted above, representatives of labor have diminished (albeit from a low starting point) declining from around five per cent of participants in the first few years of the Public Forum to just one per cent in more recent years. This is despite the subject of some Public Forums being seemingly of direct relevance to labor. The 2014 Public Forum, for example, included as one of its three sub-themes “trade and jobs.”<sup>42</sup> Despite this there is clearly little direct engagement between labor groups and the WTO, and certainly much less than when labor issues were at the forefront of civil society debate.<sup>43</sup> Numbers of academics and students have risen substantially over time, though declined in recent years for the reasons set out above. Interestingly, the Public Forum has seen the overall proportion of NGO participants decline, despite the origins of the Public Forum residing in an attempt to engage precisely this area of civil society. By contrast, business participants make up an increasing proportion of registered attendees and have become the largest group in most recent years. Likewise, there is an overall downward trajectory in the percentage of state-based representatives, though this is primarily a result of particularly high totals in the first two years. When these two figures are controlled for, there no overall trend is discernible.

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<sup>42</sup> WTO, *Public Forum 2014 Theme*, [https://www.wto.org/english/forums\\_e/public\\_forum14\\_e/theme\\_e.pdf](https://www.wto.org/english/forums_e/public_forum14_e/theme_e.pdf) (accessed 1 August 2017).

<sup>43</sup> Steve Hughes & Rorden Wilkinson, *Labour Standards and Global Governance: Examining the Dimensions of Institutional Engagement*, 6 *Global Governance* 259-277 (2000).

### Figure 3: ABOUT HERE

What the data do show is a correlation between heightened moments of political contestation in the DDA and increased levels of civil society participation across all groups. It would have been a great surprise if this were not the case. However, the data also show that other common claims in the literature are substantiated. For instance, there is no evidence that business groups have disengaged from the WTO as measured by their participation in Public Forums both as panelists and registrants. In actuality, business interest in WTO proceedings, as measured in this way, has risen over time. Equally, there is no evidence of support for the claim that states have come to see the WTO as less important, or that few government officials attend the Public Forum, despite the protracted problems of the DDA. This is not to say that states have not looked elsewhere in terms of negotiating trade deals with the so-called mega-regionals being an obvious focus of much negotiation activity, but beyond that the evidence we present here suggests that this has not been accompanied by a wholesale diminution in the importance of the WTO as a site for trade governance.

While these data provide insights into general attendance rates of the evolution of civil society as a broad group they can also hide important inequalities and discontinuities within each group. In the next section we disaggregate the data into global North and South in the pursuit of greater insight, since this is the primary political division within WTO politics.<sup>44</sup>

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<sup>44</sup> Kristen Hopewell, *Breaking the WTO: How Emerging Powers Disrupted the Neoliberal Project* (Stanford U. Press 2016).

### *Disaggregating by global North and South*

Figure 4 gives the proportion of total Public Forum participants coming from the global North and South. It provides greater nuance to the patterns presented in Figure 1, showing markedly different trends between Northern and Southern registrants that are obscured in the aggregate data. It must be remembered when interpreting this data that, as set out in the methodology section above, it is the geographical distribution between global North and South of organizational affiliations not individuals—that is, each participant is attributed a Northern or a Southern code based on the organization rather than on an individual's nationality—for which data are unavailable.

Participants representing organizations from the global North have remained relatively stable over time, showing no clear trend from 2004 onwards after the initial growth of the Public Forum as a whole. Organizations from the global South show two trends (though with substantial year-on-year variation), increasing to a peak in 2007 before declining subsequently. As such, it is specifically the organizations from the global South that fit most accurately with the claim in the literature that levels of participation track political developments in the negotiations; whereas, attendance by those from the North appears to correlate less with the ebb and flow of WTO politics. This is supported further by Figure 5, which gives the proportions of total participants between North and South. It shows that participation by those representing Southern based organizations increased as a percentage of the total until the DDA entered its period of crisis, before declining slightly.

**Figure 4: ABOUT HERE**

## **Figure 5: ABOUT HERE**

Figure 6 offers further disaggregation by splitting the categories of participants into global North and South as a percentage of total participants. Here we see greater variation as well as quite different trends and participation rates within some categories between global North and South. The South provides a majority of state representatives, perhaps reflecting the use that Geneva based trade missions make of the Public Forum as an opportunity to network with one another and to engage with debates about trade matters. Given that many developing country delegates in Geneva cover multiple organizations, events like the Public Forum provide times in which they focus attention on the WTO. Businesses from the global South increased dramatically until almost reaching a par with those of the North in 2008, before the gap re-emerged. This alters the picture provided in the aggregate data above. While we can see that business groups are emerging as the largest group within the Public Forums, this growth is coming primarily from the global North.

For NGOs we also see important caveats when we disaggregate for geographic region. What we find is that interest from NGOs based in the global South expressed in rates of registration at the Public Forum increased until 2008 before falling back; whereas, NGOs from the global North showed a steep decline in registered attendance in the early years before leveling out. We can see then that the decline post-2007-2008 in the proportion of participants coming from the developing world—that is seen in Figure 8 above—can be attributed primarily to the relative reduction of NGO registrations from the global South over this time.

## **Figure 6: ABOUT HERE**



Bringing this together, participation in the Public Forum generally shows two phases—from 2002 to 2007 when the DDA was actively being negotiated, and then from 2008 onwards when a new period emerged. Overall numbers of participants at the Public Forums increased quickly in the first period and peaked at moments of particular political tension within the DDA, with registered attendance falling back thereafter to a position of remaining fairly flat.

In that second period the Public Forum has taken on a more Northern tinge, reversing the trend in the first period. Business groups have become more prominent over time and in the second period this has been driven by an increasing interest from business participants from the global North. The global South saw a significant increase in participation rates for business groups until 2007 with this trend being reversed in the second period. This is also mirrored in participation rates for NGOs, in which parity between North and South was achieved around 2007-8 before the re-emergence of a significant gap between the two. Labor groups were always relatively marginal and have become all but absent. State-based representatives have remained relatively steady over time and the global South now provides a majority of this group. As noted above, the continued strong participation by the global South in this category possibly reflects the fact that they make of the Public Forums as both a networking and learning opportunity—a chance to hear a range of voices and opinions about the global trade system. This poses the question: whose voices are being heard? It is to this issue that the next section turns.

### **The Content of Public Forum Panels as an Indicator of “Voice”**

Participation is only one aspect of the character of the Public Forums. Equally important is the composition of the panels since it is panelists that, in large measure, shape the content

of debate. It is the views of panelists that are communicated to the other participants and which are—by dint of their role as speakers—deemed expert and authoritative. Figure 7 shows the total number of Public Forum panelists, which provides a measure of the evolution in the size of the event. It is clear that the Public Forum has expanded considerably, with rapid growth in the early years before a more steady overall expansion from 2004. It is notable that the size of the event measured in this way does not follow the same pattern as the number of participants examined above. Though there are small variations over time, there is no obvious diminution in the number of panels in periods of negotiation stasis. Indeed, the Public Forum is clearly growing over time on this measure.

**Figure 7: ABOUT HERE**

Figure 8 disaggregates this overall picture into the seven categories. A number of trends are visible but interestingly they differ significantly across categories. Again in contradistinction to conventional wisdom, the number of panelists representing business has risen fairly continuously, suggesting no disengagement from official WTO processes. By contrast, the number of NGO panelists has waxed and waned over time, rising to a peak in 2006 before falling significantly and then rising strongly again from 2011. The most dramatic trend is the steady rise of representatives of IGOs, which by 2014 formed the joint largest group.

**Figure 8: ABOUT HERE**

Figure 9 converts these into the proportions that each category represents each year. A number of trends are noteworthy. The proportion of panelists from business has increased significantly (albeit in a rather volatile fashion) since 2007, often now forming the largest group in recent years. The fall in the proportion of NGO representatives registering to attend the Public Forums seen in Figure 3 above is largely mirrored here, though with some reversal of that trend in recent years. Nonetheless, from a position of being comfortably the largest category of panelists in the early years of the forums NGOs are now roughly on a par with state and business groups. Consistent with the data presented earlier in the paper, labor as a group is marginal, particularly in the post-2005 period.

**Figure 9: ABOUT HERE**

As before, it is important to disaggregate by geographical region. Figure 10 shows the proportion of panelists from the global South from 2001 to 2014. What we see is considerable year-on-year variation around an average of approximately 30 per cent of panelists, though with a concerning, albeit slight, downward trend over time.

**Figure 10: ABOUT HERE**

Figure 11 offers further elaboration, disaggregating by category. A number of things are noteworthy. The proportion of panelists taken from NGOs has declined in both North and South, but shows a larger fall from the North. While business is the only group in which there is a clear (though small) upward trend in panelists from the global South, the lion's share of the overall rise in the number of business representatives that was seen

in Figure 9 is found to be from the global North. State representatives are the only group for which the global South forms a majority in most years, though this may now be narrowing.

### **Figure 11: ABOUT HERE**

The overall picture that emerges is that there have been notable changes over time in the character of the voices being heard on the panels of the Public Forums. The early dominance of NGOs has declined, particularly those of the global North, which has seen business and IGOs take on a greater proportion. The debate is led predominately by voices from the global North and this has remained stable over time. In the next section we discuss why the findings of the previous two sections are of interest and what they suggest for the study of non-state actors and the multilateral trading system more generally.

### **Conclusion**

Our purposes in this paper have been three-fold. First, we have sought to offer the first empirically rigorous assessment of the changing character of civil society at the WTO Public Forum since its inception. Second, we have sought to test four hypotheses drawn from the literature on the complexion of the global civil society: (i) that the volume of participation in the Public Forum is determined by the ebb and flow of WTO-centered trade politics, with participation levels peaking during moments crisis and falling away during times of stasis; (ii) that the stalling of the multilateral trade agenda has led to business interests turning away from the WTO; (iii) that the participation of NGOs in the Public Forum is also sensitive to the rhythms of trade politics; and (iv) that governments—particularly those from the global North—have begun to lose interest in the

WTO and shifted attention to other arenas. We find that the data supports hypotheses 1 and 3, but we find little support for 2 and 4. In fact, there has been little disengagement from either the business community or governments, despite the difficulties in the WTO negotiations.

Third, through providing disaggregated data concerning who is attending WTO Public Forums and who sits on the panels we have been able to identify some trends and insights that would otherwise remain hidden. Some of the implications of these are explored in the following concluding remarks.

Broadly in line with much of the literature on global civil society and the WTO, our findings suggest that the critical character of global civil society has been blunted over time by its interaction with the WTO.<sup>45</sup> By taking the changing complexion of participants as a proxy measure, there are three points worthy of emphasis. First, while the Public Forum was introduced by the WTO Secretariat to engage with NGOs, it is business actors that are increasingly being engaged at the Public Forum. This trend is true both in terms of business sector participation more generally and in terms of invitations to partake as panelists at the Forum. We also find evidence that while the prevalence of these actors has increased at the Public Forum, the participation rate of NGOs has decreased, again both as participants and panelists. As NGOs tend to be more critical of the WTO than other civil society actors (particularly business groups), this suggests that the space for critical civil society voices may be increasingly being crowded out. The increase in prevalence of IGOs on Public Forum panels can also be interpreted as evidence of this trend as IGOs—often representing multiple actors and governing multiple issue areas—also tend to hold less

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<sup>45</sup> Hopewell, *supra* n. 5, at 1128-1158; Matthew Eagleton-Pierce, *Symbolic Power in the World Trade Organization* (Oxford U. Press 2013); Bill Paterson, *Transformismo at the WTO*, in *Gramsci and Global Politics: Hegemony and Resistance* (Mark McNally & John Schwarzmattel eds., Routledge 2009); Michael Strange, *Writing Global Trade Governance: Discourse and the WTO* (Routledge 2013); and Karen Tucker, *Participation and Subjectification in Global Governance: NGOs, Acceptable Subjectivities and the WTO*, 42 *Millennium: J. Intl. Stud.* 376-396 (2014).

critical views of trade issues than advocacy-based NGOs. What is clear is that the Public Forum is not a space for contestation or critical dialogue. Rather, it is a venue for information sharing among relatively likeminded groups. However, it is unclear what the drivers of these changes are.<sup>46</sup> Future research could interrogate the relationship between the changing make-up of participants and panelists, as well as understand the drivers of the changes in the relationship between the civil society actors at the Public Forum more broadly. One tentative hypothesis is that these changes have been driven, at least in part and perhaps unwittingly, by the WTO secretariat as the increase in business participation and decrease in NGO participation at the Public Forum was preceded by an increase in business participation and decrease in NGO participation on Public Forum panels.

Second, there is a persistent gap in participation between civil society actors from the global North and South. Particularly noteworthy is the decline in NGO participants from the global South after 2007-8. While the location of venue (Geneva) provides some insight—previous research has suggested venue choice matters in terms of regional civil society participation at the ministerial conferences<sup>47</sup>—this does not explain variation among groups of civil society actors or across time. A more complete explanation might draw on both structural factors, such as asymmetrical resource distribution between countries and the institutional power of particular countries within the WTO, and proximate factors, namely the pattern of negotiations.

Finally, the changed composition of participants at the Public Forum begs the question of whether its purpose has changed substantially since its conception. Piewitt suggests that the Public Forums provide an important source of knowledge for civil society actors, which enables them to participate more effectively on the sidelines of

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<sup>46</sup> Author (2017).

<sup>47</sup> Piewitt, *supra* n. 3, at 477.

ministerial conferences .<sup>48</sup> The continued presence of participants from state groups in the global South reinforces this argument, suggesting that the Public Forum is a learning and networking opportunity. However, the concern is that the Public Forum is no longer a place to contest effectively the elements of the global trade system, or to generate innovative thinking about how to remedy its deficiencies, particularly as they relate to areas like the distribution of welfare gains, or the relationship between trade and human health, food security, or sustainable development. Given the ever-increasing recognition of the tensions between trade and these issues, it maybe necessary to rethink the role of the Public Forum as an institutionalized venue for debate.

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<sup>48</sup> Piewitt, *supra* n. 3, at 483-4.

